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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2008 - 328*

11 **JUNKO OKI**
212 South Marengo Avenue, Apt. G
12 Alhambra, CA 91801

A C C U S A T I O N

13 Registered Nurse License No. 676765

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Accusation solely
18 in her official capacity as the Executive Officer of the Board of Registered Nursing (Board),
19 Department of Consumer Affairs, State of California.

20 2. On or about March 29, 2006, the Board issued Registered Nurse License
21 Number 676765 to Junko Oki (Respondent). The Registered Nurse License was in full force and
22 effect at all times relevant to the charges brought herein and will expire on May 31, 2009, if not
23 renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board, under the authority of the
26 following laws. All section references are to the Business and Professions Code (Code) unless
27 otherwise indicated.
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5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

7. Section 123 of the Code states:

“(a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

2

“Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

“In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

“(c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.”

8. Section 2761 of the Code states:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.”

9. California Code of Regulations, title 16, section 1411.6 provides:

“An applicant who takes the examination shall not disclose the contents of the written examination questions to anyone other than a person authorized by the Board. No one except as authorized by the Board shall solicit, accept, or compile information regarding the contents of written examination questions, either before, during or after the administration of any examination.”

COST RECOVERY PROVISION

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 **NCSBN/NCLEX**

2 11. The National Council of State Boards of Nursing (NCSBN) develops and
3 administers the NCLEX-RN examinations on behalf of the nursing boards in the 50 states, the
4 District of Columbia, and four U.S. territories. Every registered nurse must pass the NCLEX
5 examination before s/he can be licensed to practice. NCSBN copyrights the NCLEX-RN
6 examination items. Retired items are not released to the public. Before the commencement of an
7 NCLEX-RN examination, each candidate must sign a confidentiality agreement.

8 **GLOBAL NCLEX REVIEW CENTER**

9 12. From about 2004 to the present, Thelma Macabeo owns and/or otherwise
10 operates Global NCLEX Review Center (Global), located at 3255 Wilshire Boulevard, Los
11 Angeles, CA 90010. Global offers review courses to candidates who qualify to take the Board's
12 licensure examination. As part of the review course, students enrolled at Global are provided
13 with test booklets which contain sample test questions and answers.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Subverting Licensing Examination)**

16 13. Respondent's license is subject to disciplinary action under Code sections
17 496 and 123, in that Respondent engaged in acts which subverted the Board's licensure
18 examination. The circumstances are as follows:

19 14. On or about September 13, 2005 and December 14, 2005, Respondent
20 took and did not pass the Board's licensure examinations. In or about January 2006, Respondent
21 attended the review courses provided by Global. On or about March 27, 2006, Respondent took
22 and passed the Board's licensure examination at test center PPC 46977 (Pasadena, CA).
23 Respondent provided test questions from the previous Board's licensure examination to Thelma
24 Macabeo and/or her students, and aided Thelma Macabeo in the unauthorized compilation,
25 reconstruction, and/or reproduction of a portion of the actual licensure examination.

26 15. These portions of illegally obtained Board licensure examination questions
27 were compiled, reconstructed and reproduced in the 2006 version of Global's test booklets and
28 distributed to the students of Global for preparation of the upcoming Board's examinations.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violating Regulations Governing Examination Disclosure)**

3 16. Respondent's license is subject to disciplinary action under Code section
4 2761, subdivision (d), in conjunction with California Code of Regulations, title 16, section
5 1411.6, for disclosing the contents of the Board's written examination questions without
6 authorization. The circumstances are as described in paragraphs 13-15 above, and incorporated
7 herein by reference as if fully stated.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**


10 17. Respondent's license is subject to disciplinary action under Code section
11 2761, subdivision (a) for unprofessional conduct, in that Respondent breached the confidentiality
12 of the Board's licensure examination by disclosing questions from the examination without
13 authorization. The circumstances are as described in paragraphs 13-16 above, and incorporated
14 herein by reference as if fully stated.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 676765, issued
19 to Junko Oki;
- 20 2. Ordering Junko Oki to pay the Board of Registered Nursing the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 5/20/08

25 
26 RUTH ANN TERRY, M.P.H., R.N.
27 Executive Officer
28 Board of Registered Nursing
State of California
Complainant